

ARGUMENTS/REMARKS

In response to the Office Action mailed August 9, 2004 ("OA"), Applicants respectfully request that the Office enter the above-listed amendments and consider the following remarks. By this amendment, claim 21 has been amended, and no claims have been added or canceled. Thus, claims 21-43 remain pending in this application. Authorization is hereby given to charge any fees (e.g., extension fees) associated with this response to Deposit Account No. 50-1078.

In the Office Action: (i) claim 21 has been objected to as allegedly being problematic with respect to claim construction issues; (ii) claims 21-23, 26-34, 36, and 38-43 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 5,856,174 to Lipshutz et al. ("Lipshutz"); and (iii) claims 24, 25, 35, and 37 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lipshutz in view of U.S. Patent No. 6,037,178 to Leiner et al. ("Leiner").

Claim Interpretation

Applicants have amended the claims to recite additional details concerning the structure of the claimed invention, and respectfully submits that the objections noted by the Office in the claim interpretation section have thereby been overcome.

Claim Rejections - 35 U.S.C. § 102(a)

Claims 21-23, 26-34, 36, and 38-43 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Lipshutz. The Office Action asserts that Lipshutz teaches

each and every recitation of these claims, as filed with the RCE on June 10, 2004.

However, with respect to claims 21-23, 26-34, 36 and 38-43 as currently presented, Applicants disagree.

Claim 21 has been amended to recite, for example, a companion cartridge comprised of "a base element having a substantially planar shape" that is "inserted into a slot of a diagnostic instrument in coupled relation to an associated sensing cartridge which has a body fluid sensor and a planar surface," wherein "the companion cartridge and the sensing cartridge are physically distinct from each other and the diagnostic instrument." Claim 21 has also been amended to clarify that, in conjunction with the sensing cartridge, the companion cartridge "has a slot-shaped physical structure that is complementary to the slot of the diagnostic instrument such that the companion cartridge and the sensing cartridge fit within the slot and interact as a modular subcomponent of the diagnostic instrument."

Lipshutz does not teach or suggest, inter alia, a companion cartridge used in association with a sensing cartridge and a diagnostic instrument, wherein the companion cartridge, the sensing cartridge and the diagnostic instrument are all physically separate and distinct elements, as is now recited in claim 21. The portions of Lipshutz cited by the Office disclose only a single unitary cartridge (Fig. 3; column 2, lines 15-43), or a "data gathering operation" incorporated "into the diagnostic device itself" (column 11, lines 48-52), and thus Lipshutz simply does not disclose that these various components are physically separate and distinct. Accordingly, then, Lipshutz also cannot teach or suggest that the companion cartridge and associated sensing

cartridge, "in conjunction," are "a modular subcomponent of the diagnostic instrument," as is now recited in amended claim 21.

For at least the foregoing reasons, Lipshutz cannot anticipate independent claim 21, as amended. Therefore, Applicants respectfully request that the rejection of claim 21 under 35 U.S.C. §102(e) be withdrawn and the claim allowed.

Claims 22-23, 26-34, 36, and 38-43 depend on claim 21 and therefore include all elements and recitations thereof. As explained above, claim 21 is distinguishable from Lipshutz. Thus, claims 22-23, 26-34, 36, and 38-43 are distinguishable from this reference for at least the same reasons given with respect to claim 21. Applicants therefore request that the rejection of claims 22-23, 26-34, 36, and 38-43 under 35 U.S.C. §102(e) be withdrawn and the claims allowed.

Claim Rejections - 35 U.S.C. § 103(a)

In the instant action, claims 24, 25, 35, and 37 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Lipshutz in view of U.S. Patent No. 6,037,178 to Leiner et al. ("Leiner"). However, with respect to claims 24, 25, 35, and 37, as currently presented, Applicants disagree.

Claims 24, 25, 35, and 37 depend from independent claim 21. According to the reasoning provided herein, Applicants respectfully submit that independent claim 21, as amended, is allowable over Lipshutz. Applicants further submit that the shortcomings of Lipshutz with respect to amended claim 21, as set forth above, are also not taught or suggested by Leiner (either alone, or in combination with Lipshutz). Therefore,

Applicant respectfully submits that claims 24, 25, 35, and 37 are allowable over the cited references for at least the same reasons set forth above in connection with claim 21.

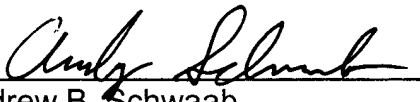
In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 50-1078.

Respectfully submitted,

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Dated: November 9, 2004

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